

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DONALD MORGAN,)	CASE NO.
)	
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	<u>AND JURY DEMAND</u>
MICHAEL ROBINSON,)	
WASHINGTON COUNTY SHERIFF,)	
an individual, WASHINGTON)	
COUNTY, NEBRASKA,)	
)	
Defendants.)	

Plaintiff alleges:

INTRODUCTION

1. This is an action, filed pursuant to U.S. Const. Amend. I and XIV, and Title 42 U.S.C. § 1983, for damages, declaratory judgment, and injunctive relief. Plaintiff challenges the retaliatory actions of Defendants taken against Plaintiff as a result of Plaintiff's exercise of his constitutionally protected rights of free speech and free assembly, and Plaintiff's rights to due process and equal protection of the laws.

2. Plaintiff seeks to enjoin the continuing deprivation of his constitutionally guaranteed rights, protected by the First and Fourteenth Amendments to the Constitution of the United States and under Nebraska law, and damages for the infringement upon his constitutional rights by Defendants, acting under color of state law, and which infringements continue.

I

JURISDICTION / VENUE

3. This is an action arising under the First and Fourteenth Amendments to the Constitution of the United States, and Title 42 *U.S.C.* § 1983. Accordingly, this Court has jurisdiction over the parties and the subject matter of this claim. Venue is proper pursuant to 28 *U.S.C.* § 1391 because the Defendants are residents of Nebraska and because all events giving rise to this claim occurred in the District of Nebraska. Pursuant to 28 *U.S.C.* § 1343 (a)(3), the Court has jurisdiction because Plaintiff seeks to redress the deprivation, under color of state law, of rights, privileges and immunities secured to him by the Constitution of the United States. This Court is empowered by 28 *U.S.C.* §§ 2201 and 2202 to effectuate and enforce declaratory relief by all necessary and proper means because this case involves an actual controversy with the Court's jurisdiction.

II

PARTIES AND GENERAL ALLEGATIONS

4. Plaintiff is a duly licensed law enforcement officer in the State of Nebraska. At all times relevant to this action, Plaintiff worked as a deputy for the Washington County Sheriff's Office for thirteen years.

5. The Defendant Michael Robinson was, at all times relevant to this action, the Sheriff of Washington County, Nebraska.

6. Defendant Washington County, Nebraska is a subdivision of the State of Nebraska, established and existing by virtue of Neb. Rev. Stat §23-101 and it maintains a Sheriff's Office in Blair, Nebraska, which is headed by the locally-elected Sheriff Michael Robinson.

7. Plaintiff Donald Morgan was a candidate for Sheriff of Washington County in the

May 2014 election and ran against the incumbent Michael Robinson.

8. During the course of the campaign Plaintiff, while off duty, made statements critical of certain policies and programs of the Washington County Sheriff's Office.

9. Defendant Michael Robinson won the primary elections on May 13, 2014.

III.

FIRST CAUSE OF ACTION

RETALIATION FOR EXERCISE OF PROTECTED SPEECH

10. All of the allegations in each of the foregoing paragraphs are incorporated by this reference as if fully set forth herein.

11. On or about May 18, 2014, Plaintiff Donald Morgan was terminated from the Washington County Sheriff's Department.

12. The Disciplinary action report by which Donald Morgan's dismissal was effectuated cites several statements, some of which Plaintiff denies making, but all would have been made in the course of the campaign. These statements are either true, were believed to be true, or were not made by Don Morgan and therefore do not constitute lawful grounds for termination.

13. Defendants retaliated against Plaintiff for exercise of his protected speech made during his campaign by terminating him.

SECOND CAUSE OF ACTION

DEPRIVATION OF DUE PROCESS OF LAW

14. All of the allegations in each of the foregoing paragraphs are incorporated by this reference as if fully set forth herein.

15. Michael Robinson, in the Disciplinary Action Report and elsewhere made stigmatizing remarks against Plaintiff which were intended to defame his character. These remarks constitute a deprivation of the liberty due to citizens of the United States.

16. Defendants have failed to follow proper arbitration procedures and have denied Donald Morgan any ability to clear his name before an impartial tribunal.

THIRD CAUSE OF ACTION

BREACH OF CONTRACT

19. Article 5, Section 7 of the 2012-2016 Labor Contract between the Washington County Sheriff and FOP Lodge 36 states that the arbitration proceeding shall be conducted “within (10) calendar days after the submission of the written demand for arbitration”. A written demand for arbitration to the County was made by Plaintiff on June 26, 2014 yet no arbitrator has been selected and no hearing held as of the date this Complaint was filed.

20. As a member of the Fraternal Order of Police and an employee of the Washington County Sheriff’s Office, Plaintiff is a member of the class of persons who are the intended beneficiaries of the 2012-2016 Labor contract and denying him proper arbitration proceedings is contrary to the laws of Nebraska.

IV

REQUEST FOR RELIEF

Based on the foregoing basis, Plaintiff respectfully requests:

1. A declaration by this Court that Defendants’ retaliatory acts against Plaintiff for exercise of protected speech and rights of free association, constitute an ongoing, impermissible deprivation of Plaintiff’s constitutionally guaranteed rights, pursuant to the First and Fourteenth

Amendments to the U.S. Constitution.

2. Judgment of Plaintiff's general damages and special damages in an amount to be proven at trial.

3. Punitive damages for Defendants' intentional abuse of Plaintiff and his clearly established constitutional rights.

4. Reimbursement of costs, and an awards of attorney's fees and expenses, and such other relief as may be just and equitable.

DONALD MORGAN, PLAINTIFF

BY: s/Thomas M. White
C. Thomas White, #14488
Thomas M. White, #17452
Amy S. Jorgensen, #23215
WHITE & JORGENSEN
209 South 19th Street, Suite 310
Omaha, Nebraska 68102
(402) 346-5700

ATTORNEYS FOR PLAINTIFFS

JURY DEMAND - DESIGNATION OF PLACE FOR TRIAL

Plaintiff respectfully demands trial by jury. Plaintiff designates Omaha, Nebraska as the place for trial.

s/Thomas M. White